

REMARKS

I. Status of Application

Claims 1-22 and 25 are all the claims pending in the present Application. The Examiner has withdrawn claim 23 from consideration. By this Amendment Applicant hereby editorially amends claim 12 for purposes of clarity.

II. Claim Rejections Under 35 U.S.C. § 101

The Examiner has rejected claim 12 under 35 U.S.C. § 101 as allegedly not falling into one of the four statutory categories of invention. Specifically, the Examiner alleges that the “process” of claim 12 is not “tied to another statutory category (such as a particular apparatus), or (2) transforms[s] underlying subject matter (such as an article or material) to a different state or thing.” (See Office Action, page 3). Claim 12 has been amended, and thus this rejection is now moot as the claim is tied to a particular apparatus, namely an array antenna transceiver.

III. Claim Rejections Under 35 U.S.C. § 112

The Examiner has rejected claim 1 under 35 U.S.C. § 112, sixth paragraph, as allegedly failing to disclose corresponding structure for performing the function recited in the means-plus-function limitations of claim 1. Applicant respectfully disagrees.

The proper test for meeting the definiteness requirement is that the corresponding structure material or acts) of a means (or step)-plus-function limitation must be disclosed in the specification itself in a way that one skilled in the art will understand what structure (or material or acts) will perform the recited function. *See Atmel Corp. v. Information Storage Devices, Inc.*, 198 F.3d 1374, 1381, 53 USPQ2d 1225, 1230 (Fed. Cir. 1999).

Structure for performing the function recited in the claims can be found throughout the specification. For example, structure to perform the recited function can be found at least in ¶¶ [0058]-[0061] of the present Application. Likewise, FIG. 1 provides a block diagram, illustrating the structural interconnection of the various sections of exemplary embodiments of the invention. Whether or not the specification adequately sets forth structure corresponding to the claimed function necessitates consideration of that disclosure from the viewpoint of one skilled in the art. *See Budde v. Harley-Davidson, Inc.*, 250 F.3d 1369, 1376 (Fed. Cir. 2001) (citing *N. Am. Vaccine, Inc. v. Am. Cyanamid Co.*, 7 F.3d 1571, 1579, 28 USPQ2d 1333, 1339 (Fed. Cir. 1993); cf. *In re Ghiron*, 442 F.2d 985, 991, 169 USPQ 723, 727 (CCPA 1971) (stating that “if such a selection would be ‘well within the skill of persons skilled in the art,’ such functional-type block diagrams may be acceptable and, in fact, preferable if they serve in conjunction with the rest of the specification to enable a person skilled in the art to make such a selection and practice the claimed invention with only a reasonable degree of routine experimentation”). *See also Intel Corp. v. VIA Technologies, Inc.*, 319 F.3d 1357, 1366, 65 USPQ2d 1934, 1941 (Fed. Cir. 2003) (The “core logic” structure that was modified to perform a particular program was held to be adequate corresponding structure for a claimed function although the specification did not disclose internal circuitry of the core logic to show exactly how it must be modified.).

Furthermore, “[t]here is a strong presumption that an adequate written description of the claimed invention is present when the application is filed.” (*See* MPEP § 2163-I-A; *see also In re Wertheim*, 541 F.2d 257, 263, 191 USPQ 90, 97 (CCPA 1976)). The burden is on the Examiner to rebut this presumption. The Examiner has not explained why one of ordinary skill in the art would find the structure recited in the specification to be deficient or lacking.

Applicant respectfully requests for the Examiner to withdraw the rejection.

IV. Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1 and 12 under 35 U.S.C. § 102(e) as allegedly being anticipated by Farlow et al. (US 7,072,693). Applicant respectfully disagrees and requests that the Examiner reevaluate his position.

With respect to claim 1, Applicant respectfully asserts that Farlow fails to disclose, or even suggest, at least the claimed “means for grouping all subcarriers into a plurality of subcarrier groups.”

In the Office Action, the Examiner seems to imply that because all of the signals enter the same block, these signals are somehow “grouped.” This is not correct. In the present Application, even though each signal may ultimately be placed in its own individual group, the signals must be evaluated to determine which group they should be placed in. No such evaluation is described, or even suggested in Farlow.

Instead, the “transmit spatial processing 211” is the calibration portion of the device -- the location where the signals are calibrated. Specifically, the “transmit spatial processing 211 receives the frequency domain signal representation and applies complex calibration coefficients to each spatial signal.” (Col. 6, ll. 17-20). Again, the specification explains that the calibration coefficient is applied to each (*i.e.*, individual) spatial signal. This is confirmed in FIG. 5 of Farlow. FIG. 5 is an illustration of the transmit spatial processing 211. As shown in FIG. 5, each signal is processed individually. There is no evaluation of the signal to determine whether it should be grouped with another signal or not. Nor does Farlow provide any example where signals are grouped, or even evaluated. Likewise, the Examiner provides no support for this assertion.

The fact that the signals enter the same block does not meet the “grouping” limitation of claim 1. If construed so broadly, the Examiner essentially gives no weight to this limitation, and as a result, vitiates the limitation from the claim. It is well known that, when examining the claims of an application, “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” MPEP § 2143.03; see also *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

For at least these reasons, Applicant respectfully asserts that claim 1 is allowable over the cited art of record.

With regard to independent claim 12, Applicant respectfully asserts that this claim is allowable for reasons analogous to those recited with respect to claim 1 above.

V. Allowable Subject Matter

Applicant thanks the Examiner for indicating that dependent claims 2-11, 13-22 and 25 would be allowable if rewritten in independent form. However, Applicant respectfully requests the Examiner to hold in abeyance the rewriting of these claims until the Examiner has had the opportunity to reconsider the rejected parent claims in light of the arguments presented in support of the Applicant’s traverse of the rejection.

VI. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Amendment is being filed via the USPTO Electronic Filing System (EFS).

Applicant herewith petitions the Director of the USPTO to extend the time for reply to the above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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